

REMARKS

Claims 24, 39, 40, 43, 50 and 51 have been amended without prejudice or disclaimer. Currently, claims 24-57 are before the Examiner for consideration on their merits.

Applicants' attorneys wish to thank Examiner Cole for granting a personal interview on January 25, 2005. The arguments and amendments made herein were discussed during the interview.

1. Claim rejections under 35 U.S.C. § 112, second paragraph

a) Claims 28, 29 and 31

The Examiner has objected claims 28, 29 and 31 as being rendered indefinite because the polyacid ester component is claimed to be esterified with an alcohol, whereas an alcohol is excluded by the claims.

In fact, the exclusion is intended only for ethanol or an alcohol under the free form, but not under the ester form.

Accordingly, the claims have been amended to provide the clarification as required by the Examiner.

It is believed that the amendments, which are accordingly performed in independent claims 24 and 43, are overcoming this formal objection under 35 U.S.C. § 112, second paragraph.

b) Claims 37 and 38

The Examiner has emphasized that claims 37 and 38 would be rendered indefinite because the claims recite that the polyacid ester represents 0.1-30% of the hydrofluoro ether component and raised the question about this percentage with regard to the total composition.

In fact, it appears from the specification, on page 5, lines 28 to 32, that the relative proportion between the polyacid ester and the hydrofluoro ether component of 0.1-30% is correct.

It is also given in the specification, on page 7, lines 21 to 23 and 24 to 27, the percentage of the hydrofluoroether from 65 to 85% by weight of the final composition and of the polyacid ester of from 1 to 20%, preferably from 3 to 20% by weight of the final composition.

Accordingly, there is no contradiction at all between the two ways of setting forth the percentage of introduction of the polyacid ester with regard to the hydrofluoroether component or with regard to the final composition.

Accordingly, it is believed that the Applicants have clarified that the percentage recited in claims 37 and 38 is indeed corrected.

c) Claims 39, 40, 50 and 51

The Examiner objected that claims 39, 40, 50 and 51 would be rendered indefinite because it is unclear whether the Applicants intend for a selection between the recited complementary components as in Markush grouping or whether the claims requires both components and in claims 40 and 51, it is unclear whether the Applicants are reciting the phthalate component as being an additional independent component or whether it is present as the component that improves the properties of the perfume component promoting persistence of the composition to the skin.

In the amended version of claims 39 and 50, it has been added the word "from" for the second component so that it is clear that it is selected from either a second co-solvent or from the component for improving the properties of a perfume composition.

In claims 40 and 51, it has been added a second "wherein" between "and" and "the component..." and in addition, it has been amended on line 2 "promotes" into -- is promoting --, so that the second part of the claim relates to the component improving the properties of a perfume composition, which comprises a phthalate.

It is believed that these amendments to claims 39 and 50; and 40 and 51, respectively overcome the formal objections under 35 U.S.C. § 112, second paragraph, and the rejection should be withdrawn.

2. Claim rejection under 35 U.S.C. § 102

The Examiner has rejected claims 24 to 27, 33, 43 to 46, 48 and 49, 53 to 55, under 35 U.S.C. § 102(e) as being anticipated by US patent 6,573,235 to SURBLED et al. (SURBLED).

In this respect, the Applicants emphasize that SURBLED discloses a composition free of ethanol comprising a hydrofluoroether, water as a co-solvent and an essential oil of sweet orange.

The Examiner refers in this respect to column 2, lines 28 to 41.

The Examiner is citing between parentheses in the Office Action on the fourth line from the bottom of page 3 that a citric acid ester would be the essential oil of sweet orange, or at least contained in the essential oil of sweet orange.

Applicants do not agree with this interpretation since an essential oil of sweet orange does not mean a citric acid ester.

In addition, in SURBLED, there is a contradiction between the wish of eliminating ethanol from the composition and by citing ethanol as one of the co-solvents, (see column 2, lines 35 to 41 and in particular line 37).

On the other hand, the examples only implement the dissolving of an essential oil in a hydrofluoroether like methoxynonafluorobutane (examples 1 and 2) or ethoxynonafluorobutane (examples 3 to 8).

There is no further co-solvent.

In view of this, SURBLED cannot affect the critical combination claimed of a mixture of a hydrofluoro ether component with at least one polyacid ester, and cannot anticipate the claims under 35 U.S.C. § 102(b).

This is believed by the Applicants to be implicitly recognized by the Examiner, who recognized that claims 30, 32 contained allowable subject matter.

Accordingly, in view of the fact that SURBLED discloses the use of either a hydrofluoro ether component alone or of the use of a co-solvent selected from ethanol and water (column 2, lines 36-37), SURBLED cannot anticipate the critical mixture of a hydrofluoroether component and of at least one polyacid ester as claimed by Applicants.

It should be further added that the essential oil is understood by those skilled in the art as constituting or being a part of the perfume concentrate, which is a different component from the hydrofluoro ether component or of the polyacid ester.

Claims 43 and 46 to 49 as well as the method of solubilizing a perfume concentrate of claims 53 to 55 are believed to be clear in this respect.

Finally, Applicants have well noted the Examiner's comments under item 5, page 4 of the Office Action, where the Examiner recognizes that the prior art does not teach or suggest the particular polyacids required by the objected two claims.

It is also submitted that there is no basis to conclude that the claims are obvious under 35 U.S.C. § 103(a) based on the teachings of Surbled since there is no motivation to modify this reference and arrive at the invention of claims 24 and 43.

In view of this, it is believed that this application, with the presently amended claims, is believed to be in condition for allowance.

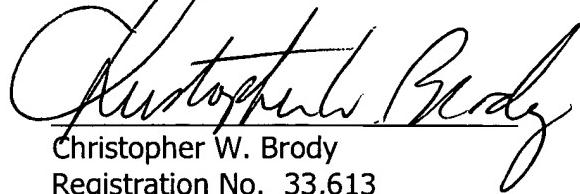
Accordingly, this application is believed to be now in a condition for allowance and the issuance of a Notice of Allowance is respectfully solicited.

The above constitutes a complete response to all issued raised in the Office Action of September 29, 2004.

A petition for a one month extension of time is hereby made. A check in the amount of \$120.00. Please charge any shortages or credit any overpayments to Deposit Account No. 50-1088.

Respectfully submitted,

CLARK & BRODY



The image shows a handwritten signature in black ink, which appears to be "Christopher W. Brody". Above the signature, the firm name "CLARK & BRODY" is printed in a standard sans-serif font. Below the signature, the name "Christopher W. Brody" is printed again, followed by "Registration No. 33,613".

Customer No. 22902
1090 Vermont Ave. NW
Suite 250
Washington, DC 20005
Telephone: 202-835-1111
Facsimile: 202-835-1755

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